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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,087	10/29/2001	Rafi Bamdad	Pillow-01	8509

7590

03/08/2004

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EXAMINER

BROWN, MICHAEL A

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,087

Applicant(s)

Kafi Bamdad et al

Examiner

Michael Brown

Group Art Unit

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 12/26/03.
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 14-21 is/are allowed.
- ☒ Claim(s) 1-13 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedick in view of Lagin, along with Gerhard, as set forth in the previous office action, Paper No. 5.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Blackburn, as set forth in the previous office action, Paper No. 5.

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Lebold, as set forth in the previous office action, Paper No. 5.

Response to Arguments

Applicant's arguments filed December 26, 2003 have been fully considered but they are not persuasive. Applicant argues that the combination of Benedick and Lagin does not produce a pillow with a set of straps that go around the neck area or a gripping handle. Applicant also argues that the combination of Benedick and Gerhard was made to disclose and teach a pillow with a pair of straps that go around the shoulders and a

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gripping handle on the pillow. However, Applicant argues that the function of the gripping handle in Gerhard is used to perform a function that is different from the function of the gripping handle in the present invention. The examiner's interpretation is that the prior art discloses a gripping handle on a pillow which is pressed against the chest. The function of gripping handle was not given any patentable weight in the article/product claims recited in the present invention. Applicant sets forth three criteria that the prior art does not disclose, a membrane layer for receiving the hands and forearm, a continuous strap for attachment around the neck and a gripping handle for the patient to grab with their hands. The prior art has disclosed and taught each of these limitations. Lugin clearly teaches a membrane layer 14 that the hand and forearm is inserted into. Benedick discloses a continuous strap and Gerhard teaches a gripping handle. Whether these structural limitations can perform the same functions as the structural limitations in the present invention was not given patentable weight in the product claims.

Allowable Subject Matter

Claims 14-21 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 703-308-2682. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 703-308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown
March 5, 2004



MICHAEL A. BROWN
PRIMARY EXAMINER